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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,593

11/19/2003

David Walter Flynn

550-488

6450

23117

7590

03/22/2005

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EXAMINER

PRETLOW, DEMETRIUS R

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/715,593

Applicant(s)

FLYNN, DAVID WALTER

Examiner

Demetrius R. Pretlow

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-41 is/are allowed.
- 6) ☒ Claim(s) 42 is/are rejected.
- 7) ☒ Claim(s) 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/19/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

Claim 42 is objected to because of the following informalities:

In claim 42, line 5, "desired data processing performance level operate" is unclear. It appears that something is missing.

In claim 42, line 5-7 "said desired data processing performance level having value linearly related to said desired data processing performance level", is unclear and is interpreted by the examiner as meaning a performance level related to itself.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 42 is rejected under 35 U.S.C. 102(e) as being anticipated by Cooper et al. (US 2004/0107369). The examiner interprets "said desired data processing performance level having value linearly related to said desired data processing performance level", meaning a performance level related to itself. Cooper et al. teach program instructions executable by said processor to set (change) a desired data

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processing performance level to control one or more further circuits to support said desired data processing performance level operate, said desired data processing performance level. Note claims 11-16 and paragraphs 51-52.

***Allowable Subject Matter***

Claims 1-41 are allowed.

The best prior art of record, particularly Cooper et al. (US 2004/0107369) teach a power management technique uses system management interrupt (SMI) to manage performance states of logical processors in a physical processor. However Cooper et al. does not teach the following claim limitations.

The primary reason for the allowance of claims 1-20 is the inclusion of the limitations of an a mapping circuit operable to map said performance level request signal into a control signal supplied to one or more further circuits to control operation of said one or more further circuits so as to support said desired data processing performance level of said processor such that said program instructions controlling generation of said performance level request signal are independent of how said one or more further circuits are controlled to meet said desired data processing performance level.. It is these limitations found in each of the claims, as they are **claimed in the combination**, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art.

The primary reason for the allowance of claims 21-41 is the inclusion of the method steps of mapping with a mapping circuit said performance level request signal

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into a control signal supplied to one or more further circuits to control operation of said one or more further circuits so as to support said desired data processing performance level of said processor such that said program instructions controlling generation of said performance level request signal are independent of how said one or more further circuits are controlled to meet said desired data processing performance level. It is this step found in each of the claims, as it is **claimed in the combination**, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art.

Claim 43 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach wherein said desired data processing performance level has a value equivalent to a binary fraction of a maximum data processing performance level as it is **claimed in the combination**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Demetrius R. Pretlow whose telephone number is (703) 272-2278. The examiner can normally be reached on Mon.-Fri. 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Demetrius R. Pretlow

*Demetrius Pretlow* 3/15/05

Patent Examiner

*Michael Nghiem*  
MICHAEL NGHIEM  
PRIMARY EXAMINER